

**BOARD OF PILOT COMMISSIONERS FOR THE BAYS OF
SAN FRANCISCO, SAN PABLO, AND SUISUN**

INITIAL STATEMENT OF REASONS

Title 7. Harbors and Navigation
Division 2. State Board of Pilot Commissioners for the Bays of
San Francisco, San Pablo and Suisun
Article 4. Training Programs

Harbors and Navigation Code (HNC) section 1171.6 requires that the Board shall adopt, by regulation, the qualifications, standards, and rating criteria for admission of pilot trainees to the training program. It also states that the Board shall administer and conduct the pilot trainee admission selection in accordance with the regulations for admission. Board regulations in Title 7 of the California Code of Regulations, Section 213, states that it is Board policy, through an effective selection process, to provide opportunity for progressive development and advancement of qualified maritime personnel to State licensed pilots in accordance with statutory requirements.

Section 213 goes on to state that the Board, in selecting applicants to participate in the Pilot Trainee Training Program, adheres to equal opportunity precepts. All applicants meeting minimum eligibility requirements as provided herein shall receive consideration without regard to age, sex, race, religion, national origin, lawful political affiliation, physical handicap (within the SHIPS limitations), marital status, membership or non-membership in any employee organization, or any other personal condition unrelated to the applicant's basic ability to perform satisfactorily as a pilot trainee and as a pilot.

The current training program regulations, which were last revised in 2016, do not effectively respond to the demographic changes within the national maritime sector, from which qualified Board trainees are drawn. On August 26, 2021, the Board approved the proposed amendments to change elements of the Pilot Trainee Training Program examination.

The proposed regulations changes seek to allow a broader, more diverse segment of qualified maritime personnel an opportunity for the progressive development and advancement toward State licensing through the Pilot Trainee Training Program. The proposed changes are also necessary to adjust to the reduction in the pool of available eligible candidates due to the steady decrease in the relative size of the United States fleet of merchant vessels and to encourage and induct a younger, more diverse group of eligible candidates to the pool of state licensed pilots.

For example, in 1998, when these regulations were first put into effect, the United States merchant vessel fleet (American flagged ships) numbered 470 (with a world fleet of

27,828). In 2019 that number dropped to 182 (with the world fleet growing to 43,779)¹, decreasing from 1.7% of the world's fleet to 0.4%. Fewer American flagged ships produce fewer candidates with command experience; and the pool of candidates who have command experience tends to be older and less diverse.

Additionally, the operation of deep-sea vessels typically includes two persons per ship in Command positions, two Chief Mates. Currently, only those with command experience are eligible to participate in the Exam. Allowing candidates with Chief Mate experience to be eligible to take the Exam will theoretically double the pool of deep-sea candidates eligible for the Exam.

Likewise, reducing the minimum qualifications for vessel-towing candidates, from vessels greater than 99-tons to vessels of 50-tons or greater, will widen the spectrum of eligible applicants. Also, changing the requirement that candidates must have held a 1600-ton master's license while acquiring the command experience is expected to lead to a greater pool of candidates.

Finally, the addition of the interview element to the exam allows adjustments to the final scoring of the exam for soft skills and attributes that are difficult to measure using a written examination and a bridge simulator exercise. These soft skills may include leadership qualities, language skills, work ethic, or commitment to succeed. "Practical problems encountered on the job often require the ability to recognize problems that are ill-defined, require information-seeking, may have multiple solutions and multiple paths to a solution, may require reliance on information learned in every-day experience, and potentially require motivation and personal involvement, a different set of skills than those involved in solving academic problems."² "Abilities such as interpersonal communication skills, practical judgment, and creativity play a role in successful job performance."³

According to the *Handbook of Employee Selection*⁴, a study on standardized testing, "Society is best served when we engage in the intellectual and practical work necessary to examine and develop more holistic assessments. Doing so will both reduce the adverse impact that occurs when we rely solely upon cognitive test scores and produce better qualified students, employees, and lawyers."

STATEMENT OF PURPOSE, PROBLEM ADDRESSED, AND NECESSITY

¹ United States Department of Transportation, Bureau of Transportation Statistics, Number and Size of the U.S. Flag Merchant Fleet and Its Share of the World Fleet.

² Robert J. Sternberg & Richard K. Wagner, The Geocentric View of Intelligence and Job Performance is Wrong, 2 CURRENT DIRECTIONS IN PSYCHOL. SCI. 1, 2 (1993).

³ Shultz & Zedeck, supra note 1 at 625; see generally Flip Lievens & David Chan, Practical Intelligence, Emotional Intelligence and Social Intelligence, in HANDBOOK OF EMPLOYEE SELECTION 339 (James L. Farr & Nancy T. Tippins eds., 2010) (discussing the various conceptualizations of intelligence, the instruments used to measure these intelligences, and the correlation between these various conceptualizations of intelligence and job performance prediction).

⁴ Shultz & Zedeck

RATIONALE FOR EACH PROPOSED UPDATE, CLARIFICATION, AND CHANGE

For each proposed update, clarification, and change, the specific purpose, problem addressed, and rationale for the determination that these amendments are reasonably necessary are set forth below.

Subsection (d) of Section 213

Deleting reference to “SHIPS” (Seafarers Health Improvement Program) which has been superseded, first by United States Coast Guard (USCG) Navigation and Vessel Information Circular (NVIC) 04-08, and now by the *Merchant Mariner Medical Manual*. The *Merchant Mariner Medical Manual* revises, updates and combines the medical evaluation guidance previously published in NVIC 04-08. This amendment changes the name to conform to the standards currently in use. The reference to SHIPS in the Board’s current regulations is obsolete and this change will correct this inaccuracy.

Subsection (e)(3)(B) of Section 213

This amendment sets forth an expansion of the minimum qualifications to participate in the Pilot Trainee Training Program Selection Exam (Exam), to include those mariners who have served in the capacity of Chief Mate of a self-propelled vessel in navigation of not less than 1600 gross tons and holds a master’s license of any gross tons. This expansion of the minimum qualifications to participate in the Exam (previously open only to those mariners under section 213(e)(3)(A) – one year in command of a self-propelled vessel in navigation of not less than 1600 gross tons) is allow for more maritime professionals from the “deep sea” sector of the profession, where the number of United States ships where this work experience is available has diminished substantially over the last decade. This expansion allows those mariners who have not been promoted to a command position but have served as Chief Mate (second in command of a vessel) the opportunity to participate in the Exam. This expansion would allow a greater number of maritime professionals this opportunity to participate in the Exam, which will promote diversity within the exam pool of candidates. The candidates with this particular career experience will still be required to hold an unlimited master’s license to qualify for the Exam.

Subsection (e)(3)(C) of Section 213

This addition to the regulations allows for a person employed as a full-time commercial pilot the opportunity to qualify for the Exam. While the current regulations allow for the consideration of mariners working as full-time commercial pilots to satisfy the recency requirements of section 213(e)(4)(C), allowing experience as a full-time commercial pilot as a minimum qualification to take the Exam is new. By qualifying these mariners for the exam broadens the pool of potential candidates and thereby raises the potential for a more diverse pool of candidates.

Subsection (e)(3)(D) of Section 213

This amendment broaden the pool of potential candidates to the Exam by removing the language that the two year's of experience cited in this section be obtained "while holding a valid federal license as master of vessels of not more than 1600 gross tons." A potential candidate will now be able to gain this work experience prior to, or concurrent with, obtaining this federal license as master of vessels of not more than 1600 tons. This amendment further broadens the pool of potential candidates to the Exam by decreasing the minimum qualifications on the required tonnage for the towing vessels from the current language of "not less than 99 tons" to "greater than 50 tons." ⁵

Subsection (e)(4)(B) of Section 213

This subsection aligns the new subsections (e)(3)(B) of Section 213 with the existing requirements to demonstrate recency of experience under subsection (e)(4). In this case, the new requirement is to provide documentation of two years Chief Mate experience, so the recency was aligned with a current towing recency time interval of five years and three years under the current subsection (e)(4)(B).

Subsection (e)(4)(D) of Section 213

This subsection aligns the new subsections (e)(3)(C) of Section 213 with the existing requirements to demonstrate recency of experience under subsection (e)(4). In this case, the new requirement is to provide documentation of one year as a full-time commercial pilot, so the recency was aligned with command experience recency time interval of four years and two years under subsection (e)(4)(A).

Subsection (e)(4)(E) of Section 213

This subsection aligns the new subsections (e)(3)(D) of Section 213 with the existing requirements to demonstrate recency of experience under subsection (e)(4). In this case, the new requirement is to provide documentation of two years in command of a towing vessel, so the recency was aligned with command experience recency time interval of five years and three years under the current subsection (e)(4)(B).

Subsection (f)(2)(A), (C), and (D) of Section 213

These subsections were amended to include Chief Mate experience allowed under subsection (e)(3)(B) to be used for accumulating experience points under this subsection.

⁵ This change is consistent with the action taken by the Selection Appeals Committee in 2019, wherein they decided to allow a candidate with substantially equivalent experience, but on a towing vessel engaged in ship assist of less than 99 gross tons, to take the 2019 Exam.

Subsection (g) of Section 213

This subsection defines that one year is interpreted to mean 360 days, and that gross tons means gross registered tons (GRT) under the Regulatory Measurement System. This subsection also adds a reference to a United States Coast Guard (Coast Guard) Policy Letter, wherein the Coast Guard provides equivalent service credit for Gross Tons ITC (GT) under the Convention Measurement System. This subsection incorporates the Coast Guard equivalent wherein service on vessels of less than 3000 tons GT will be considered equivalent to service on vessels less than 1600 GRT.

Subsection (i)(4) of Section 213

This subsection was amended to clarify that the Exam process will proceed beyond the current end at the conclusion of the bridge simulator exercise. It specifies that a candidate must have a passing score on both the written exam and the simulator exam to proceed further.

Subsection (j) of Section 213

This new subsection specifies the criteria for an interview process developed and administered by the board with the assistance of one or more contractors with psychometric qualifications equivalent to the State of California's Staff Personnel Program Analyst classification. This subsection defines that there will be an interview, that the questions will be scored using benchmark criteria developed with subject matter experts (SMEs). It also specifies that the interview will be conducted using a panel comprised of one public board member, one industry board member, one pilot board member, and a representative of the California Department of Human Resources (CalHR). The reason to add an interview is to allow the panel to consider other skills and attributes not identified in the written or simulator examinations, that may lead to success in the training program. The interview may also allow the panel to gauge the candidate's interest level in the program, and whether they have the work ethic and commitment to succeed.

Subsection (k) of Section 213

This subsection explains that the combined scores from each portion of the Exam (experience points, written examination, bridge simulator exercise, and the interview) will be given equal weight for the final selection and ranking on the eligibility list.

Subsection (l) of Section 213

This subsection explains how the eligibility list will be ranked, with the combined scores of the applicant's experience points, written examination score, bridge simulator exercise, and interview, each given equal weight, ranked from highest to lowest.

ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed amendments to the Pilot Training Program regulations will not affect the creation or elimination of jobs within California nor will they affect the creation or elimination of businesses within California or the expansion of businesses currently doing business within California.

Benefits of the Proposed Action: The proposed amendments to the Pilot Training Program regulations will benefit California residents and United States citizens by offering the opportunity to enter the Pilot Training Program to a wider, more diverse section of the population. If successful in the Pilot Training Program, the candidate will have greater economic opportunities to participate in a key element of regional trade.

EVIDENCE SUPPORTING ECONOMIC IMPACT ASSESSMENT AND FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC EFFECT ON BUSINESS

The proposed amendments will not affect businesses and will affect only eligible members of the maritime community. Currently the Exam is available to a limited group of eligible members of the maritime workforce. These proposed amendments will decrease the minimum qualifications necessary to qualify to take the Exam, and therefore make the Exam available to a greater cross-section of the maritime workforce, while still assuring that the skill set required to be successful in the training program is retained. The impact of the proposed amendments is limited to those individuals who have achieved a certain level of expertise within their occupational group and who are also interested in changing either the nature of their current employment or, in the case of those working as pilots currently, changing the situs of their current employment.

The existing regulations have been in place since 2011 and at that time only minor changes were made to regulations that have been in place since 1998. The proposed amendments are premised on the Board's experience with offering the Exam, and the resultant candidate pool established at the conclusion of the Exam. The Board seeks to diversify the resultant candidate pool and to do so is making minor adjustments to both the minimum qualifications to participate in the exam and to the Exam itself by adding an interview element, that may operate to identify qualities and skills not made apparent by the use of the written examination and the simulator exercise.

The Board anticipates that the proposed amendments will serve to increase the number of eligible candidate applications for the Exam. Each candidate does have to provide an Exam fee of one-thousand-dollars with their application, which is held by the Board for the duration of the exam. Those candidates whose eligibility is confirmed and who attend the written exam forfeit five hundred dollars of the one-thousand-dollar fee. Candidates who qualify for and attend the simulator exercise then forfeit the remaining five-hundred dollars of the one-thousand-dollar fee. These fees will be paid by individuals and will have no economic effect on business.

STUDIES, REPORTS, OR SIMILAR DOCUMENTS RELIED UPON

In proposing these amendments to the Pilot Trainee regulations, the Board did not rely on any technical, theoretical, or empirical study, report, or similar document, with the exception of the above noted study (Andrea A. Curcio, 2014) and statistics. Alternatively, the Board is relying on two decades of experience providing the Exam in the current format.

DESCRIPTION OF REASONABLE ALTERNATIVES

The Board has concluded that there are no reasonable alternatives to the proposed amendments.